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In re Application of :
Jason Scott Sawyer et al :
Serial No.: 09/836,567 : PETITION DECISION
Filed: April 17, 2001 :
Attorney Docket No.: 3051-67789 :

This is in response to the petition under 37 CFR 1.181, filed July 11, 2003, to clarify the record of the above identified application. The delay in acting on this petition is regretted.

A review of the file history shows that this application was filed with an unsigned declaration naming three inventors. The transmittal letter further confirms the names of the three inventors. A Notice of Missing Parts was mailed to applicants requiring submission of a signed oath or declaration. In reply applicants submitted a copy of a declaration from a parent application naming six inventors, only three of which had signed the declaration. By submission of the declaration naming six inventors the inventorship of this application was automatically changed to the six named inventors. In consequence of the partially signed declaration, a second Notice of Missing Parts should have been sent to applicants. However this was not done and the application proceeded to examination. Subsequent to the mailing of a Notice of Allowance and Issue Fee Due and Notice of Allowability, Publications Division returned the application to the examiner noting that the declaration was not signed by all named inventors. As a consequence of this the application has been held abandoned although it appears that a Notice of Abandonment has not been mailed out.

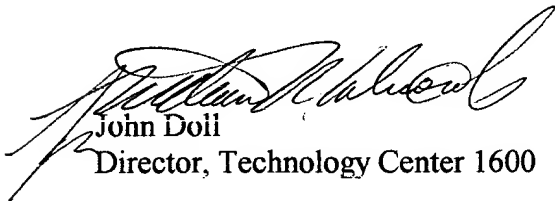
Applicants explanation of the inventorship discrepancy is not satisfactory. It is clear that this application was filed in the name of three inventors with a properly prepared, but unsigned, declaration being submitted to the Office. The transmittal papers in part 4D do not indicate the deletion of any inventors from the parent application nor any statement attesting thereto which should have accompanied the application. The subsequent submission of a partially signed declaration naming more than the listed three inventors was error on applicants' part. Either a fully signed declaration of all six inventors should have been filed with a petition to delete three of the inventors as not having made the invention now being claimed or the newly prepared declaration which listed only three inventors should have been submitted with the inventors signature.

In view of the above circumstances, the inventorship of this application is not clear and applicants failure to properly correct the inventorship has caused this application to become abandoned. A properly executed declaration has yet to be filed. In view of this lack, the request that this petition alternatively be considered under 37 CFR 1.137(b) can not be accorded. Further, such a petition should be submitted as a separate paper.

The petition is **DENIED**.

The application will be forwarded to for storage.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number.



John Doll
Director, Technology Center 1600